

July 10, 2015

VIA ELECTRONIC AND CERTIFIED MAIL

Mr. Jeff S. Jordan
Assistant General Counsel
Federal Election Commission
Attn: Frankie Hampton, Paralegal
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6938—Response of Rand Paul for President, Inc. (Paul Kilgore, Treasurer)

Dear Mr. Jordan:

A recent complaint filed with the Commission alleges that a brief conversation between a book author and U.S. Senate Foreign Relations Committee members, including Senator Rand Paul, somehow caused Rand Paul for President to receive an illegal contribution. This complaint is frivolous, even by the low standards of the lawsuit mill that filed it. Commission rules specifically define “contribution” to mean “anything of value made ... for the purpose of influencing any election for Federal office.”¹ The conversation cited by the complaint was not a “contribution” both because it was not “of value” and because no information was compiled or conveyed “for the purpose of influencing [an] election for Federal office.”

The cited conversation was plainly not “of value.” The Commission has determined that only specific categories of information transferred to a federal candidate—poll results,² membership lists,³ and donor lists⁴—have cognizable value under its rules. And the Commission has never said that a simple conversation with a candidate is “of value,” such that it can result in an in-kind contribution. It should not do so here. Senator Paul had, as the complaint acknowledges, criticized the questionable ethical practices of Bill and Hillary Clinton long before his interaction with the book author.⁵ The conversation at issue concerned the broad and varied efforts of foreign interests to influence Hillary Clinton through the Clinton Foundation, which is a public policy issue that media outlets have discussed repeatedly during the past several years. The book author’s verbal summary of his attempt to aggregate these reports and other available information was hardly the equivalent of candidate-specific polling data or a voter contact list, particularly when this same supposedly “exclusive preview” was provided to

¹ 11 C.F.R. 100.52(a).

² 11 C.F.R. 100.64.

³ 11 C.F.R. 100.52(d)(1).

⁴ Fed. Election Comm'n Adv. Ops. 2002-14, 2003-19.


⁵ Complaint at 4.

many other parties.⁶ This conversation, then, was not "of value" and did not result in an in-kind contribution to Rand Paul for President.

The cited conversation also did not feature information that was compiled or conveyed "for the purpose of influencing [an] election for Federal office." The book author's published work was widely distributed and sold, debuting at number two on *The New York Times Best Seller List*.⁷ The complaint does not and cannot argue that the author undertook this expansive effort to assist Senator Paul's presidential candidacy. Indeed, the book author's efforts to aggregate, publish, and sell information related to Ms. Clinton's ethical challenges is a paradigmatic example of activity within the "media exemption." And if the published work itself was not "for the purpose of influencing [an] election for Federal office," it is not apparent how verbally summarizing any part of that published work could be for that purpose. Thus, the cited conversation did not result in an in-kind contribution to Rand Paul for President.

While it is understandable that Ms. Clinton's supporters would prefer that Senator Paul stop telling voters about her unethical acts, a legal complaint is not a legitimate method for silencing effective critics. The Commission would set a dangerous precedent by moving forward in this circumstance, essentially outlawing conversation about a public issue between an expert author and an officeholder simply because that issue significantly involves a candidate for federal office. No "contribution" was made to Rand Paul for President here because the conversation cited in the complaint was not "of value" and because the book author did not compile or convey information "for the purpose of influencing [an] election for Federal office." The Commission should therefore find no reason to believe that a violation occurred and should dismiss this Matter immediately.

Respectfully Submitted,



Matthew T. Sanderson
General Counsel
Rand Paul for President, Inc.

⁶ See, e.g., Sam Stein and Michael Calderon, *Clinton Campaign Gears Up to Crush Another Book*, The Huffington Post (Apr. 21, 2015), available at http://www.huffingtonpost.com/2015/04/21/clinton-campaign-book_n_7109952.html (noting that Senator Bob Corker was briefed by the book author); Kyle Smith, *Hill and Bill Can't Hide from Shady Deals Exposed in 'Clinton Cash'*, The New York Post (May 3, 2015) (offering an extensive preview of the author's book prior to its release date).

⁷ *The New York Times Bestseller List for May 24, 2015*, available at <http://www.nytimes.com/best-sellers-books/2015-05-24/hardcover-nonfiction/list.html>.